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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
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In re Application of)
VERDONCK et al.)
Application No. 09/966,415)
Filed: September 28, 2001)
Attorney Docket No. NL 000522)

DECISION ON PETITION

This is a decision on the petition, filed September 12, 2003, to withdraw the holding of abandonment of the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely file a proper reply to the final rejection mailed November 5, 2002. A Notice of Abandonment was mailed on July 23, 2003.

Petitioner states that a Request for Continued Examination (RCE) was in fact timely file by facsimile transmission. To support this assertion, petitioner has submitted a copy of the RCE, a copy of the sending unit 's report confirming transmission and a copy of the auto-reply facsimile transmission receipt which acknowledges receipt of an RCE in the USPTO on February 4, 2003. The RCE bears a certificate of transmission under 37 CFR § 1.8(a) with a transmission date of February 4, 2003.

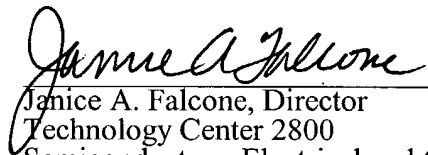
A review of the application file reveals that the RCE acknowledged as having been received in the USPTO on February 4, 2003, is not of record in the application file and cannot be located. However, M.P.E.P. § 502.1 states "the date of receipt accorded to any correspondence permitted to be sent by facsimile transmission is the date the complete transmission is received by an Office facsimile unit, unless the transmission is completed on a Saturday, Sunday, or Federal holiday within the District of Columbia. Correspondence for which transmission was completed on a Saturday, Sunday, or Federal holiday within the District of Columbia, will be accorded a receipt date of the next succeeding day which is not a Saturday, Sunday, or Federal

holiday within the District of Columbia.” Accordingly, it is concluded that the RCE was timely received in the PTO but lost after receipt thereof.

In view of the above stated reasons, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. Inconvenience to petitioner is regretted.

The application file is being forwarded to the Technical Support staff for processing the RCE and to charge the required fees to Deposit Account No 14-1270. From there, the application file will be returned to the examiner for further examination..

Inquiries regarding this decision should be directed to Jose’ G. Dees at (703) 308-4628.



Janice A. Falcone, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components